Cochin Income-tax Bill.—(*cont.*)

The following amendments were considered withdrawn as they were not moved.

Mr. A. Sankara Poduval.—Instead of "beginning with the first day of Chingam 1108" amend as "beginning with the first day of Chingam 1109 M. E."

Mr. P. Raman Menon.—In section 3 substitute "1109" for "1108".

Mr. P. Krishna Menon.—Substitute "1109" for "1108" in section 3 of the Bill.

Mr. A. Sankara Menon.—Add the following proviso to section 3: "Provided that for the year 1108, only 25% of the assessment shall be collected from each assessee".

Mr. A. Sankara Poduval.—Sir, I beg to move that in section 3 of the Bill the following proviso may be added.—

"Provided that in the case of a Hindu undivided family, as also in the case of an undivided Marumakkathayam tarawad, the net annual income alone is liable to be assessed".

As matters stand, the gross income, either of a Hindu undivided family or of an undivided Marumakkathayam tarawad, exceeding Rs. 2,000, is liable to be taxed. I am aware that a similar provision obtains in the Income-tax laws of other Native States as also in British India. In assessing either a Hindu undivided family or a Marumakkathayam tarawad, the gross income is taken as the basis of taxation. Now, with regard to the assessment upon individual incomes, a minimum of Rs. 2,000 is exempted from taxation. In a Hindu undivided family or an undivided Marumakkathayam tarawad there might be several members who are not possessed of separate earnings. Separate earnings stand upon a different category altogether. If such a family be divided, and the gross income per head becomes less than Rs. 2,000, it is exempt from taxation. It would seem as if the Government is very particular to see that the joint families should effect partition if they want to escape the burden of taxation. The principle is unjust. Members of a family may evade the law by resorting to partition when the gross income of Rs. 2,000 becomes proportionately reduced. Government should not in any way enact a rule so as to induce these people to partition their joint estates. My suggestion is that the net income alone should be made liable to taxation in the case of Hindu undivided families and undivided Marumakkathayam tarawads. To put a concrete example, suppose there are 3 members in joint family and the gross income is Rs. 2,500, that income is liable to taxation under this Bill. Suppose these members divide into two or three branches. Then the gross income becomes proportionately less, and if less than Rs. 2,000, it is not liable to taxation. Why should the Government bring in a Bill so as to induce people to separate? Is there any harm in joint living? Is the

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joint family system a danger to the State ? Is it something that the State should object to? Although similar laws obtain elsewhere, there is no reason why these two particular types of family, the Hindu undividedfamily and the undivided Marumakkathayam tarawad, should be singled out for taxation. It is quite a different thing when this family has embarked upon a trading business. Then that business may be taxed. A Hindu undivided family is not in the nature of a partnership trade or a business concern. The family has several common expenses to meet, and the gross income should not be the basis of taxation. This hardship may be removed, and the net income alone may be held to be liable to be taxed under this Regulation. If a family is carrying on business, there is no necessity for exemption. Therefore the net income of the undivided Hindu family and the undivided Marumakkathayam tarawad alone should be taxed, and the section may be so amended.

Mr. P. S. Kesavan Nambudiri.—I second it.

Mr. C. A. Ouseph.—What does the Hon'ble Member mean by net income?

Mr. A. Sankara Poduval.—Net income is the surplus after the normal expenditure of the family. You make an allowance of Rs. 2,000 in the case of individual assessees. Similarly a proportionate reduction is to be made in the case of these families.

Mr. C. A. Ouseph.—I simply oppose it.

Rao Bahadur Mr. P. I. Varugis.—The argument of the Hon'ble Member for Trichur points to this, namely, that in assessing a joint Hindu family the minimum taxable should be found by dividing the total income by the number of thavazhis there are in the family. But that is not the form of the proposition brought forward by the Hon'ble Member. He wants that the basis should be the net income but that conclusion is not borne out by the arguments advanced. If it should be the net income in the case of joint families, it may be the net income in the case of everybody. I therefore oppose the motion.

Mr. K. Achyuta Menon.—On behalf of the Government, I oppose the amendment. It seems to me we have to follow a definite principle in matters of taxation statutes. The Hon'ble Member for Trichur has no objection to defining a person as including a Hindu family. So long as that definition stands, an undivided Hindu family has to be taxed like an ordinary individual. It cannot be denied that in the case of poor and moderate Hindu families it may work apparently hardship. But so long as we have to start upon a definite principle, *i. e.*, to tax it as if it were a person in the eye of the law, to ask the farmers

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to tax them for the net income alone is practically asking them not to tax an undivided Hindu family at all. On general principle no distinction can be made between a Christian undivided family or a Hindu undivided family. I think therefore, that there is no point of principle involved in the proposed amendment. Therefore I oppose the amendment.

Mr. A. Sankara Poduval.—I find the general sense of the House is against my motion. So I beg leave to withdraw.

The amendment was, with leave, withdrawn.

Mr. A. Sankara Poduval.—I do not move the next amendment.

Hence the following amendment was considered withdrawn.

Mr. A. Sankara Poduval.—After section 3 add the following proviso to the section:—"Provided that if any tax has been levied from the assessee by a Municipal Council, in respect of the said income, the amount of income-tax chargeable under this Regulation shall be reduced bythat extent, and the balance, if any, alone shall be collected."

Question put:—*That section 3 as amended stand part of the Bill.*

Charge of Income-Tax.

3. Income-tax shall be charged for the year beginning with the first day of Chingam 1109 and in respect of each subsequent year, at the rate or rates specified in the Schedule appended, in accordance with and subject to the provisions of this Regulation in respect of all the income, profits and gains of the previous year of every individual, Hindu undivided family, undivided Marumakkathayam Tarawad, Company, Firm, and other association of individuals.

Section carried.

Mr. A. Sankara Menon.—Sir, I beg to move that in section 4, sub-section (3), clause (v), the following words may be added:— "or as prize-money by a subscriber in a Kuri". I shall read the clause with the preceding words so that the meaning of the clause may be clear. "Any capital sum received in commutation of the whole or a portion of the pension or in the nature of consolidated compensation for death or injuries or in payment of any insurance policy or as the accumulated balance at the credit of a subscriber to any Provident Fund." It is only profits that are taxed. It is not the capital that is taxed. With regard to the prize money of a Kuri it stands upon the same footing as the amount paid on an insurance policy or the amount standing to the credit of a subscriber in a Provident Fund. And the Kuri is a very general institution in the State and I think it is better to have my amendment also added to this clause. I mentioned this matter at the sitting of the Select Committee and I was told that the Income-tax Officers will take particular care in the matter. No doubt they will do so. And if they act justly I do not think they will tax this

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item. But I think it is better to place confidence in the enactment than in the action of the Income-tax Officers. Therefore I think this amendment is necessary. It stands on the same footing as the other item mentioned in the clause. Therefore I move this amendment for the favourable consideration of the House.

Mr. Paul Mampilli.—I support the amendment. The prize-money in a Kuri is not an income derived from a business. It is practically a loan taken from the starter of the Kuri. It cannot be considered as a sort of income which we derive out of some capital. It is in the nature of a loan taken from other persons which has to be returned. The difference is that it may be paid back in instalments at stated intervals. I admit that it may have to be taxed at the end, when the kuri has terminated. And even then subscriptions paid up will have to be taken into account in arriving at the figure to be taxed. It would be quite unjust to tax the prize-money when it is drawn.

Mr. K. Achyuta Menon.— I oppose the amendment. It is a debatable point whether the prize-money in a Kuri represents capital or income. It would be hardly fair now to decide whether it is capital or income. If it is shown that the prize-money in a Kuri represents capital, then the income-tax officer will not take it as 'taxable income.' So far as I know the 3 items among which this is sought to be included stand on a different footing. Pension is the result of several years' faithful service and is the mainstay of a man at a time when further income earning is generally supposed impossible. Insurance policy—Here again a provision is made for the support of the family in case the assured is cut off in the beginning of his career. So also provident funds are small scrapings from the salary of the employed. Kuri money is in my opinion the accumulated sum-total of periodical investments in a profit-making concern and cannot on any account be regarded as capital receipts or casual income. At any rate it is a matter for serious argument. Why not leave it to the courts to decide whether it is capital or not? Why condemn the authorities that are yet to function? It would be far better that the matter is left to the courts. The amendment is, therefore, unnecessary.

Mr. C. A. Ouseph.—May I draw the attention of the House to section 15? Section 15 exempts certain items from income-tax. That does not cover payments towards Kuri. Suppose a man makes regular payments towards a Kuri. That cannot be exempted under section 15. If that is not exempted, certainly the amendment ought to be accepted.

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Mr. P. Raman Menon.—I too support the amendment. Kuri money will in some cases only be capital or money belonging to the person who wins the Kuri. Suppose a Kuri is won at the first instalment. The winner has to pay for the subsequent instalments, so that it becomes his money only after the termination of the Kuri. It is, as if it were a loan taken under favourable conditions. The income from that should not be taxed by the Income-tax Officer. The next amendment that I had submitted runs thus:—"When the property is purchased or buildings put up with either borrowed capital or kuri money, the ineresst on such borrowed capital ofannual subscriptions to the kuri until the debt is paid or the Kuri terminates." There I have enlarged the scope of the amendment. The Kuri money is only a loan taken under favourable conditions. Therefore I think the amendment ought to be allowed.

കെ. അയ്യപ്പൻ.—സർ, ഞാനും ഇതിനെ പിന്താങ്ങുന്നു. ലാ മെമ്പരുടെ പ്രസംഗം കേട്ടതുകൊണ്ടാണ് ഇതിനെ പിന്താങ്ങണമെന്നു എനിക്കു തോന്നിയതു. ഇതു ക്യാപ്പിറ്റൽ മണിയാണെങ്കിൽ അതിനെ ടാക്സ് ചെയ്യേണ്ട ആവശ്യമില്ലെന്നും, അതു കോടതിയിൽ വ്യവഹാരം മൂലം തീച്ചയാക്കാവുന്ന സംഗതിയാണെന്നുമാണ് അദ്ദേഹം പറഞ്ഞതു. നിയമനിർമ്മാണം സംശയങ്ങൾ സൃഷ്ടിക്കുവാനല്ല. ഇല്ലാതാക്കുവാനാണ്. സംശയങ്ങൾ നിയമനിർമ്മാണം ചെയ്യുമ്പോൾതന്നെ തീർത്തുവയ്ക്കേണ്ടതാണ്. വക്കീലന്മാർ പക്ഷെ ഇതിനെ യോജിക്കയില്ല. സാമാന്യ ജനങ്ങൾക്കൊ അവരുടെ പ്രതിനിധികൾക്കൊ വക്കീലന്മാരുടെ നില എടുത്തുകൂടാ.

Mr. Joseph Pettah.—I rise to support the amendment. The Hon'ble Law Member has been kind enough to say that the prize-money drawn by the subscriber to a kuri is the accumulated savings deposited and drawn in a lump. Now income-tax is charged on these earnings once and it is only the amount of money on which income-tax has been paid that is deposited as instalments in a kuri. Prize-money means the accumulated amount of such deposits paid back to the depositor. We generally charge no tax on deposits withdrawn from a bank. It is capital and not income. It is the accumulated amount of sums on which tax was once paid. Same is the case with the prize-money. Or it is a loan taken from the trustee and which has to be repaid in instalments. It is one of the two. The position is clear. If you get the prize at the beginning of the kuri, it is a loan. If you get it at the end of the kuri, it is a mere withdrawal of investments. In either case it cannot be regarded as income. The Law Member was pleased to say that it is a doubtful matter. Why not give the benefit of the doubt to the

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people? This is an important matter in Cochin, where we have a large number of kuries. Prize-money, therefore, cannot be regarded as a rare item which can well be ignored. Any doubt in this matter will entail unnecessary hardship on a very large number of people every year. In such a matter the legislature will do well to legislate in such terms as would avoid all possibility of doubt. Otherwise the Regulation will lead to unnecessary litigation, profitable neither to the Government nor to the tax-payers, but only to one class of people, namely the vakils.

Mr. A. Sankara Menon.—The Hon'ble Member for Adoor has explained it in the clearest light possible. Therefore I do not want to reply.

Amendment put and carried.

Question put.—*That section 4 as amended stand part of the Bill.*

Application of Regulation.

4. (1) Save as hereinafter provided, this Regulation shall apply to all income, profits or gains as described or comprised in section 6, from whatever source derived, accruing or arising or received in Cochin or deemed under the provisions of this Regulation, to accrue or arise or to be received in Cochin.

(2) Profits and gains of a business accruing or arising without Cochin to a person resident in Cochin shall if they are received in or brought into Cochin be deemed to have accrued or arisen in Cochin and to be profits and gains of the year in which they are received or brought into Cochin notwithstanding the fact that they did not so accrue or arise in that year, provided that they are so received or brought in within three years of the end of the year in which they accrued or arose.

Explanation.—Profits or gains accruing or arising without Cochin shall not be deemed to be received or brought into Cochin within the meaning of this sub-section by reason, only of the fact that they are taken into account in the balance sheet prepared in Cochin.

(3) This Regulation shall not apply to the following classes of income:—

(i) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes and in the case of property so held in part only for such purposes, the income applied, or finally set apart for application thereto.

(ii) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes.

(iii) The income of local authorities.

(iv) Interest on securities which are held by, or are the property of, any Provident Fund.

(v) Any capital sum received in commutation of the whole or a portion of the pension, or in the nature of consolidated compensation for death or injuries, or in payment of any Insurance Policy, or as the accumulated balance at the credit of a subscriber to any Provident Fund or as prize-money by a subscriber in a kuri.

(vi) Any special allowance, benefit or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit.

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(vii) Any receipts not being receipts arising from business or the exercise of a profession, vocation or occupation, which are of a casual and non-recurring nature, or are not by way of addition to the remuneration of an employee.

(viii) Any perquisite or benefit which is neither money nor reasonably capable of being converted into money.

(ix) Agricultural income.

In this sub-section "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, and any purpose declared by Government as charitable for the purposes of this sub-section.

Section carried.

Question put: —*That the following sections stand part of the Bill.*

Income-tax Authorities.

5. (i) There shall be the following classes of Income-tax Authorities for the purposes of this Regulation, namely—

(a) Commissioner of Income-tax.
(b) Deputy Commissioner of Income-tax.
and (c) Income-tax Officers.

(2) The Commissioner of Income-tax, Deputy Commissioner of Income-tax and Income-tax Officers shall be appointed by the Government by Notification in the Government Gazette. They shall perform their functions in respect of such classes of persons and such classes of income and in respect of such area as the Government may direct. The Government may, by general or special notification in the Government Gazette, direct that the powers conferred on the Income-tax Officer and the Deputy Commissioner by or under this Regulation shall, in respect of any specified cases or classes of cases, be exercised by the Deputy Commissioner, and the Commissioner, respectively, and for the purposes of any case in respect of which such a notification applies, references in this Regulation or in any rules made hereunder to the Income-tax Officer and the Deputy Commissioner shall be deemed to be references to the Deputy Commissioner and the Commissioner respectively.

(3) Deputy Commissioner of Incom-tax and the Income-tax Officers appointed under sub-section (2) shall, for the purposes of this Regulation, be subordinate to the Commissioner of Income-tax.

Classes of income chargeable to Income-tax.

6. Save as otherwise provided by this Regulation the following heads of income, profits and gains shall be chargeable to Income-tax in the manner hereinafter appearing, namely.—

(i) Salaries.
(ii) Interest on securities.
(iii) Property.
(iv) Business.
(v) Professional earning.
(vi) Other sources.

Salaries.

7. (1) The tax shall be payable by an assessee under the head 'Salaries' in respect of any salary or wages, any annuity, pension or gratuity and any fees, commissions, perquisites or profits received by him in lieu of or in addition to, any salary or wages, which are paid by or on behalf of the Government, a local authority, a company, in any other public body or association or by or on behalf of any private employee:

Provided that the tax shall not be payable in respect of any sum deducted under any authority of the Government from the salary of any individual

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for the purpose of securing to him a deferred annuity or of making provision for his wife, or children, provided that the sum so deducted shall not exceed one-sixth of the salary.

Explanation.—The right of a person to occupy free of rent, as a place of residence any premises provided by his employer is a perquisite for the purposes of this sub-section.

(2) Any income which would be chargeable under this head if paid in Cochin shall be deemed to be so chargeable if paid to a Cochin subject or any employee of the Government of Cochin outside Cochin by Government or by a local authority established by Government.

Interest on Securities.

8. The tax shall be payable by an assessee under the head 'Interest on Securities' in respect of interest receivable by him on any security of the Government of Cochin, or on debentures or other securities from money issued by or on behalf of a local authority or a company:

Provided that no Income-tax shall be payable on the interest receivable on any security of Government of Cochin issued or declared to be Income-tax free.

Sections carried.

Mr. P. Raman Menon.—I do not move my amendment in view of the amendment to section 4.

Hence the following amendment was considered withdrawn.

Mr. P. Raman Menon.—*Add the following as sub-clause VIII to section 9 (1). "When the property is purchased or buildings put up with either borrowed capital or kuri money, the interest on such borrowed capital or annual subscriptions to the kuri until the debt is paid or the kuri terminates".*

Question put.—*That the following sections stand part of the Bill.*

Property.

9. (1) The tax shall be payable by an assessee under the head 'Property' in respect of the bonafide annual value of property consisting of buildings or lands appurtenant thereto of which he is the owner, other than such portions of such property as he may occupy for the purpose of his business, subject to the following allowances, namely.—

(i) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs a sum equal to one-sixth of such value;

(ii) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value;

(iii) the amount of any annual premium paid to insure the property against risk of damage or destruction;

(iv) where the property is subject to a mortgage or charge or to a ground rent, the amount of any interest on such mortgage or charge or of any such ground-rent;

(v) any sums paid on account of land revenue, local rate or Municipal taxes in respect of the property;

(vi) in respect of collection charges a sum not exceeding the prescribed maximum;

(vii) in respect of vacancies, such sum as the Income-tax Officer may determine, having regard to the circumstances of the case:

Provided that the aggregate of the allowances made under this sub-section shall in no case exceed the annual value.

(2) For the purposes of this section, the expression 'annual value' shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year;

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Provided that, where the property is in the occupation of the owner for the purpose of his own residence, such sum shall, for the purposes of this section, be deemed not to exceed 10 per cent of the aggregate income of the owner.

Business. 10. (1) The tax shall be payable by an assessee under the head 'Business' in respect of the profits or gains of any business carried on by him.

(2) Such profits or gains shall be computed after making the following allowances, namely—

(i) any rent paid for the premises in which such business is carried on, provided that, when any substantial part of the premises is used as a dwelling house for the assessee, the allowance under this clause shall be such sum as the Income-tax Officer may determine, having regard to the proportionate parts so used;

(ii) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling house, a proportional part only of such amounts shall be allowed;

(iii) in respect of capital borrowed for the purpose of the business where the payment of interest thereon is not in any way dependent on the earning of profits, the amount of the interest paid.

Explanation.—Recurring subscriptions paid periodically by share-holders or subscribers in such Mutual Benefit Societies as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause.

(iv) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores, used for the purposes of the business, the amount of any premium paid;

(v) in respect of current repairs to such buildings, machinery, plant, or furniture, the amount paid on account thereof;

(vi) in respect of depreciation of such buildings, machinery, plant, or furniture being the property of the assessee a sum equivalent to such percentage on the original cost thereof to the assessee as may, in any case, or class of cases be prescribed:

Provided that—

(a) the prescribed particulars have been duly furnished,

(b) where full effect cannot be given to any such allowance in any year owing to there being no profits or gains chargeable for that year, or owing to the profits or gains chargeable being less than the allowance, the allowance or part of the allowance to which effect has not been given as the case may be, shall be added to the amount of the allowance for depreciation for the following year and deemed to be part of that allowance, or, if there is no such allowance for that year, be deemed to be the allowance for that year, and so on for succeeding years; and

(c) the aggregate of all such allowances made under this Regulation shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant, or furniture as the case may be;

(vii) in respect of any machinery or plant which, in consequence of its having become obsolete, has been sold or discarded, the difference between the original cost to the assessee of the machinery or plant, as reduced by the aggregate of the allowances made in respect of depreciation under clause (vi) and the amount for which the machinery or plant is actually sold, or its scarap value;

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(viii) in respect of animals which have been used for the purposes of the business otherwise than as stock in trade and have died or become permanently useless for such purposes, the difference between the original cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals;

(ix) any sums paid on account of land revenue, local rates or Municipal taxes in respect of such part of its premises as is used for the purposes of the business;

(x) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission:

Provided that the amount of the bonus or commission is of a reasonable amount with reference to—

(a) the pay of the employee and the conditions of his service;
(b) the profits of the business for the year in question; and
(c) the general practice in similar businesses.

(xi) Any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits or gains:

Provided that nothing in clause (ix) or clause (xi) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business or assessed at a proportion of or otherwise on the basis of any such profits or gains.

(3) In sub-section (2), the word "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section.

Professional earnings.

11. (1) The tax shall be payable by an assessee under the head "Professional earnings" in respect of the profits or gains of any profession, or vocation, followed by him.

(2) Such profits or gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of such profession or vocation, provided that no allowance shall be made on account of any personal expenses of the assessee.

(3) Professional fees paid outside Cochin to a person ordinarily resident in Cochin shall be deemed to be profits or gains chargeable under this head.

Other sources.

12. (1) The tax shall be payable by an assessee under the head 'other sources' in respect of income, profits or gains of every kind and from every source to which this Regulation applies (if not included under any of the preceding heads)

(2) Such income, profits or gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income, profits or gains, provided that no allowance shall be made on account of any personal expenses of the assessee.

Method of accounting.

13. Income profits and gains shall be computed for the purposes of sections 10, 11 and 12 in accordance with the method of accounting regularly employed by the assessee: Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine.

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14. (1) The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family or undivided Marumakkathayam Tarawad.

Exemptions of a general nature.

(2) The tax shall not be payable by an assessee in respect of—

(a) any sum which he receives by way of dividend as a shareholder in a company where the profits or gains of the company have been assessed to income-tax; or

(b) such an amount of the profits or gains of any firm which have been assessed to income-tax as is proportionate to his share in the firm at the time of such assessment; or

(c) any sum which he receives as his share of the profits or gains of an association of individuals, other than a Hindu undivided family, any undivided Marumakkathayam Tarawad, a company or firm, where such profits or gains have been assessed to income-tax.

15. (1) The tax shall not be payable by an assessee in respect of any sums paid by him to effect an insurance of his own life or on the life of his wife, or in respect of a contract for a deferred annuity on his own life or on the life of his wife, or as a contribution to any Provident Fund.

Exemption in the case of life insurances.

(2) Where the assessee is a Hindu undivided family there shall be exempted under sub-section 1 any sums paid to effect an insurance on the life of any male member of the family or of the wife of any such member, and were the assessee is an undivided Marumakkathayam Tarawad there shall be exempted under sub-section 1 any sums paid to effect an insurance on the life of any member of the Tarawad.

(3) The aggregate of any sums exempted under this section shall not, together with any sums exempted under the proviso to sub-section (1) of section 7, exceed one-sixth of the total income of the assessee.

16. (1) In computing the total income of an assessee, sums exempted under the proviso to sub-section (1) of section 7, the proviso to section 8, sub-section (2) of section 14 and section 15 shall be included.

Exemptions and exclusions in determining the total income.

(2) For the purpose of sub-section (1), any sum mentioned in clause (a) of sub-section (2) of section 14 shall be increased by the amount of income-tax payable by the company in respect of the dividend received.

17. (1) Where owing to the fact that the total income of any assessee has reached or exceeded a certain limit he is liable to pay income-tax or pay income-tax at a higher rate, the amount of income-tax payable by him shall, where necessary, be reduced so as not to exceed the aggregate of the following amounts, namely :—

Reduction of tax when margin above a certain limit is small.

(a) the amount which would have been payable if his total income had been a sum less by one rupee than that limit, and

(b) the amount by which his total income exceeds that sum.

18. (1) Income-tax shall, unless otherwise prescribed in the case of any security of the Government of Cochin, be leviable in advance by deduction at the time of payment in respect of income chargeable under the following heads:—

Payment by deduction at source.

(i) 'salaries', and

(ii) 'interest on securities'.

(2) Any person responsible for paying any income chargeable under the head 'Salaries' shall, at the time of payment, deduct income-tax

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on the amount, payable at the rate applicable to the estimated income of the assessee under this head:

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub-section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct.

(3) The person responsible for paying any income chargeable under the head 'interest on securities' shall, at the time of payment, deduct income-tax on the amount of interest payable at the maximum rate.

(4) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received.

(5) Any deduction made in accordance with the provisions of this section shall be treated as a payment of income-tax on behalf of the person from whose income the deduction was made, or of the owner of the security, as the case may be and credit shall be given to him therefor in the assessment, if any, made for the following year under this Regulation:

Provided that if such person or such owner obtains, in accordance with the provisions of this Regulation, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund.

(6) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of Government or as Government direct.

(7) If any such person does not deduct and pay the tax as required by this section, he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

(8) The power to levy by deduction under this section shall be without prejudice to any other mode of recovery.

(9) Every person deducting income-tax in accordance with the provisions of sub-section (3) shall, at the time of payment of interest, furnish to the person to whom the interest is paid a certificate to the effect that income-tax has been deducted, and specifying the amount so deducted the rate at which tax has been deducted, and such other particulars as may be prescribed.

Payment in other cases.

19. In the case of income chargeable under any other head than those mentioned in sub-section (1) of section 18 and in any case where income-tax has not been deducted in accordance with the provisions of that section, the tax shall be payable by the assessee direct.

Supply of information regarding dividend.

20. The principal officer of every company shall, on or before the 15th day of Thulam in each year, furnish to the prescribed officer a return in the prescribed form and varified in the prescribed manner of the names and of the addresses as entered in the register of share-holders maintained by the company of, the share-holders to whom a dividend or aggregate dividend exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each such share-holder.

Certificate by company to share-holders receiving dividends.

21. The principal officer of every company assessable to income-tax shall, at the time of distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay income-tax on the profits which are being distributed and specifying such other particulars as may be prescribed.

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Annual Return.

22. The prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority, company, or other public body or association and every private employer shall prepare, and within 30 days from the last day of Karkadagam in each year, deliver or cause to be delivered to, the Income-tax Officer in the prescribed form, a return in writing showing:—

(a) the name and, so far as it is known, the address of every person who was receiving on the said last day of Karkadagam, or has received during the year ending that date from the authority, company, body, association or private employer, as the case may be, any income chargeable under the head 'salaries' of such amount as may be prescribed;

(b) the amount of income so received by each such person, and the time or times at which the same was paid;

(c) the amount deducted in respect of income-tax from the income of each such person.

Return of income.

23. (1) The principal officer of every company shall prepare, and on or before the 15th day of Thulam each year furnish to the Income-tax Officer a return in the prescribed form and verified in the prescribed manner, of the total income of the company during the previous year :

Provided that the Income-tax Officer may, in his discretion, extend the date for the delivery of the return in the case of any company or class of companies.

(2) In the case of any person other than a company whose total income is, in the Income-tax Officer's opinion, of such an amount as to render such person liable to income-tax, the Income-tax Officer shall serve a notice upon him requiring him to furnish, within such period not being less than 30 days as my be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income during the previous year.

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2) or having furnished a return under either of those sub-sections discovers any omission or wrong statement therein, he may furnish a return or a revised return as the case may be at any time before the assessment is made, and any return so made shall be deemed to be a return made in due time under the section.

(4) The Income-tax Officer may serve on the principal officer of any company or any person upon whom a notice has been served under sub-section (2) a notice requiring him on a date to be therein specified, to produce or cause to be produced, such accounts or documents as the Income-tax Officer may require:

Provided that the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

Assessment.

24. (1) If the Income-tax Officer is satisfied that a return made under section 22 is correct and complete he shall assess the total income of the assessee and shall determine the sum payable by him on the basis of such return.

(2) If the Income-tax Officer has reason to believe that a return made under section 23 is incorrect or incomplete he shall serve on the person who made the return a notice requiring him, on a date to be therein specified either to attend at the Income-tax Officer's Office or to produce or to cause

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to be there produced any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice, issued under sub-section (2), or as soon afterwards as may be, the Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Income-tax Officer may require, on specified points, shall, by an order in writing, assess the total income of the assessee, and determine the sum payable by him on the basis of such assessment.

(4) If the principal officer of any company or any other person fails to make a return under sub-sections (1) or (2) of section 23 as the case may be, or fails to comply with all the terms of a notice issued under sub-section (4) of the same section, or fails to comply with all the terms of a notice issued under sub-section (2) of this section, the Income-tax Officer shall make the assessment to the best of his judgment.

Set off of loss in computing aggregate income.

25. (1) Where any assessee sustains a loss of profits or gains in any year under any of the heads mentioned in section 6, he shall be entitled to have the amount of the loss set off against his income, profits or gains under any other head in that year.

(2) Where the assessee is a registered firm and the loss sustained cannot wholly be set off under sub-section (1), any member of such firm shall be entitled to have set off against any income, profits or gains of the year in which the loss was sustained in respect of which the tax was payable by him such amount of the loss not already set off as is proportionate to his share in the firm.

Assessment in case of discontinued business

26. (1) Where any business, profession or vocation is discontinued in any year an assessment may be made in that year on the basis of the income, profits or gains of the period between the end of the previous year and the date of such discontinuance, in addition to the assessment, if any, made on the basis of the income, profits or gains of the previous year.

(2) Any person discontinuing any such business, profession or vocation shall give to the Income-tax Officer notice of such discontinuance within fifteen days thereof, and where any person fails to give the notice required by this sub-section the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income, profits or gains of the business, profession or vocation up to the date of its discontinuance.

(3) Where an assessment is to be made under sub-section (1), the Income-tax Officer may serve on the person whose income, profits and gains are to be assessed, or in the case of a firm, or any person who was a member of such firm at the time of its discontinuance, or in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 23 and the provisions of this Regulation shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

Assessment after partition of an undivided family or an undivided Marumakkathayam Tarawad.

27. (1) Where at the time of making an assessment under section 24, it is claimed by or on behalf of any member of a Hindu family or Marumakkathayam Tarawad, hitherto assessed as undivided, that a partition has taken place among the members of such family or tarawad, the Income-tax Officer shall make such enquiry thereunto as he may think fit, and if he is satisfied, that a separation of the members of the family or tarawad has taken place and that the joint

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family or undivided tarawad property has been partitioned among the various members or groups of members in definite portions before the end of the previous year, he shall record an order to that effe t:

Provided that no such order shall be recorded until notices of the enquiry have been served on all the members of the family or tarawad.

(2) Where such an order has been passed, the Income-tax Officer shall make an assessment of the total income received by or on behalf of the joint family or undivided tarawad as such, as if no separation or partition had taken place, and each member or group of members shall, in addition to any income-tax for which he or it may be separately liable and notwithstanding anything contained in sub-section (1) of section 14, be liable for a share of the tax on the income so assessed according to the portion of the joint family or undivided tarawad property allotted to him or it

and the Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provision of section 24:

Provided that all the separated members and groups of members shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the joint family or undivided tarawad as such.

(3) Where such an order has not been passed in respect of a Hindu family or a Marumakkathayam Tarawad hitherto assessed as undivided, such family or tarawad shall be deemed, for the purposes of this Regulation, to continue to be a Hindu undivided family or an undivided Marumakkathayam Tarawad.

Change in constitution of a firm.

28. (1) Where at the time of making an assessment under section 24, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessments on the firm and on the members thereof shall, subject to the provisions of this Regulation, be made as if the firm had been constituted throughout the previous year as it is constituted at the time of making the assessment, and as if each member had received a share of the profits of that year proportionate to his interest in the firm at the time of making the assessment.

Change of ownership of business.

(2) Where, at the time of making an assessment under section 24, it is found that the person carrying on any business, profession or vocation has been succeeded in such capacity by another person, the assessment shall be made on such person succeeding as if he had been carrying on the business, profession or vocation throughout the previous year, and as if he had received the whole of the profits for that year.

Cancellation of assessment when cause is shown.

29. Where an assessee, or, in the case of a company, the principal officer, thereof within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Income-tax Officer that he was prevented by sufficient cause from making the return required by section 23, or that he did not receive the notice issued under sub-section (4) of section 23 or sub-section (2) of section 24 or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the last mentioned notices, the Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 24.

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Penalty for concealment of income.

30. (1) If the Income-tax Officer, the Deputy Commissioner or the Commissioner, in the course of any proceedings under this Regulation, is satisfied that an assessee has concealed the particulars of his income or has deliberately furnished inaccurate particulars of such income and has thereby returned it below its real amount, he may direct that the assessee shall, in addition to the income-tax payable by him, pay by way of penalty a sum not exceeding the amount of income-tax which would have been avoided if the income so returned by the assessee had been accepted as the correct income:

Provided that no such order shall be made, unless the assessee has been heard, or has been given a reasonable opportunity of being heard:

Provided further that no prosecution for an offence against this Regulation shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(2) The Deputy Commissioner or the Commissioner who has made an order under sub-section (1) shall forthwith send a copy of the same to the Income-tax Officer.

Notice of demand.

31. When the Income-tax Officer has determined a sum to be payable by an assessee under either section 24 or when an order has been passed under sub-section 2 of section 26 or section 30 for the payment of a penalty he shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

Appeal against assessment under this Regulation

32. (1) Any assessee objecting to the amount or rate at which he is assessed under section 24 or section 29, or denying his liability to be assessed under this Regulation, or objecting to a refusal of an Income-tax Officer to make a fresh assessment under section 20 or to any order against him under sub-section (2) of section 26 or section 30, made by an Income-tax Officer, may appeal to the Deputy Commissioner against the assessment or against such refusaal or order:

Provided that no appeal shall lie in respect of an assessment made under sub-section (4) of section 24, or under that sub-section read with section 29.

(2) The appeal shall ordinarily be presented within 30 days of receipt of the notice of demand relating to the assessment or penalty objected to, or of the date of the refusal to make a fresh assessment under section 29 as the case may be; but the Deputy Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

Hearing of appeal.

33. (1) The Deputy Commissioner shall fix a day and place for the hearing of the appeal and may, from time to time, adjourn the hearing.

(2) The Deputy Commissioner may, before disposing of any appeal, make such further enquiry as he thinks fit, or cause further enquiry to be made by the Income-tax Officer.

(3) In disposing of an appeal, the Deputy Commissioner may, in the case of an order of assessment,

(a) confirm, reduce, enhance or annul the assessment; or

(b) set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income-tax Officer thinks fit or the Deputy Commissioner may direct, and the Income-tax Officer shall thereupon proceed to make such fresh assessment;

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or in the cases of an order under sub-section 2 of section 26 or section 30;

(c) confirm, cancel, or very such order:

Provided that the Deputy Commissioner shall not enhance an assessment unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

Appeal against the orders of Deputy Commissioner.

34. (1) Any assessee objecting to an order passed by a Deputy Commissioner under section 30 or to an order enhancing the assessment under sub-section (3) of section 33 may appeal to the Commissioner within 30 days of the making of such order.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) In disposing of the appeal, the Commissioner may, after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit.

Power of Review

35. (1) The Commissioner may call for the record of any proceeding under this Regulation which has been taken by any authority subordinate to him or re-examine the record of any proceeding taken by himself when exercising the powers of a Deputy Commissioner under sub-section (2) of section 5:—

(2) On perusal of the record, the Commissioner may make such enquiry or cause such enquiry to be made and subject to the provisions of this Regulation may pass such orders thereon as he thinks fit:

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard.

Income escaping assessment.

36. If for any reason, income, profits or gains chargeable to income-tax has escaped assessment in any year or has been assessed at too low a rate, the Income-tax Officer may at any time within one year of the end of that year, serve on the person liable to pay tax on such income profits or gains, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 23 and may proceed to assess or re-assess such income, profits or gains and the provisions of this Regulation shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section:

Provided that a tax shall be charged at the rate at which it would have been charged had the income, profits or gains, not escaped assessment or full assessment as the case may be.

Rectification of mistake.

37. (1) The Commissioner or Deputy Commissioner may, at any time, within one year from the date of any order passed by him in appeal or, in the case of the Commissioner, in revision under section 35 and the Income-tax Officer may, at any time within one year from the date of any demand made upon an assessee, on his own motion, rectify any mistake apparent from the record of the appeal, revision or assessment as the case may be, and shall within the like period rectify any such mistake which has been brought to his notice by the assessee:

Provided that no such rectification shall be made having the effect of enhancing an assessment unless the Commissioner, the Deputy Commissioner, or the Income-tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard.

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(2) Where any such rectification has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to the assessee.

(3) Where any such rectification has the effect of enhancing the assessment, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be issued under section 31, and the provisions of this Regulation shall apply accordingly.

Tax to be calculated to the nearest anna.

38. In the determination of the amount of tax or of refund payable under this Regulation, fractions of an anna less than six pies shall be disregarded and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

Power to take evidence on oath, etc.

39. The Income-tax Officer, the Deputy Commissioner and the Commissioner shall, for the purpose of any inquiry under this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure when trying a suit in respect of the following matters.—

(a) enforcing the attendance of any person and examining him on oath or affirmation; and

(b) compelling the production of documents; and

(c) issuing commissions for the examination of witnesses;

and any proceeding before the Income-tax Officer, Deputy Commissioner or Commissioner under this Chapter shall be deemed to be a judicial proceeding within the meaning of sections 179 and 214 of the Cochin Penal Code.

Power to call for information.

40. The Income-tax Officer or Deputy Commissioner may, for the purposes of this Regulation,

(1) require any firm or Hindu undivided family or undivided Marumakkathayam Tarawad to furnish him with a return of the members of the firm, or of the manager or adult male members of the family or adult members of the Marumakkathayam Tarawad, as the case may be, and of their addresses;

(2) require any person whom he has reason to believe to be a trustee, guardian, or agent, to furnish him, with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses.

Power to inspect the register of members of any company.

41. The Income-tax Officer or Deputy Commissioner or any person authorised in writing in this behalf by the Income-tax Officer or Deputy Commissioner, may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

Guardians, trustees and agents.

42. In the case of any guardian, trustee or agent of any person being a minor, lunatic or idiot or residing out of Cochin (all of which persons are hereinafter in this section included in the term beneficiary) being in receipt on behalf of such beneficiary of any income, profits or gains chargeable under this Regulation, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age, sound mind, or resident in Cochin and in direct receipt of such income, profits or gains and all the provisions of this Regulation shall apply accordingly.

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43. In the case of income, profits or gains chargeable under this Regulation which are received by the Court of Wards or by any receiver or manager (including any person whatever his designation, who in fact manages property on behalf of another) appointed by or under any order of a Court, the tax shall be levied upon and recoverable from such Court of Wards, receiver or manager in the like manner and to the same amount as it would be leviable upon and recoverable from any person on whose behalf such income, profits or gains are received and all the provisions of this Regulation shall apply accordingly

Court of Wards, Receiver or Manager.

44. (1) In the case of any person residing out of Cochin all profits or gains accruing or arising to such person, whether directly or indirectly, through or from any business connection or property in Cochin shall be deemed to be income accruing or arising within Cochin and shall be chargeable to income-tax in the name of the agent of any such person, and such agent shall be deemed to be, for all the purposes of this Regulation, the assessee in respect of such income-tax.

Non-residents.

Provided that any arrears of tax may be recovered also in accordance with the provisions of this Regulation, from any assets of the non-resident person which are, or may at any time, come within Cochin.

(2) Where a person not resident in Cochin and not being a subject of Cochin or a firm or a company constituted within Cochin or a branch thereof, carries on business with a person resident in Cochin, and it appears to the Income-tax Officer or the Deputy Commissioner, as the case may be, that owing to the close connection between the resident and to the non-resident person and to the substantial control exercised by the non-resident over the resident, the course of business between these persons is so arranged that the business done by the resident in pursuance of his connections with the non-resident, produces to the resident either no profits or loss than the ordinary profits which might be expected to arise in that business, the profits derived therefrom, or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income-tax in the name of the resident person who shall be deemed to be, for all the purposes of this Regulation, the assessee in respect of such income-tax.

(3) Where any profits or gains have accrued or arisen to any person directly or indirectly from the sale in Cochin by him or by any agency or branch on his behalf of any merchandise exported to Cochin by him or any agency or branch on his behalf from any place outside Cochin the profits or gains shall be deemed to have accruded and arisen and to have been received in Cochin and no allowance shall be made under sub-section (2) of section 10 in respect of any buying or other commission whatsoever not actually paid, or of any other amounts not actually spent, for the purpose of earning such profits or gains.

45. Any person employed by or on behalf of a person residing out of Cochin or having any business connection with such person or through whom such person is in the receipt of any income, profits or gains, upon whom the Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall for the purpose of this Regulation, be deemed to be such agent.

Agents include persons treated as such.

Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Income-tax Officer as to his liability.

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Liability in case of a discontinued firm or partnership.

46. Where any business, profession or vocation carried on by a firm has been discontinued, every person who was, at the time of such discontinuance, a member of such firm shall be jointly and severally liable for the amount of the tax payable in respect of the income, profits and gains of the firm.

Liability to tax of occasional shipping.

47. (1) The provisions of this chapter shall, notwithstanding anything contained in the other provisions of this Regulation, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of Cochin and carries on business in Cochin in any year as the owner or charterer of a ship (such person hereinafter in this Chapter being referred to as the Principal), unless the Income-tax Officer is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Regulation.

Return of profits and gains.

(a) Before the departure from any Port in Cochin of any ship in respect of which the provisions of this Chapter apply, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal, or to any person on his behalf on account of the carriage of all passengers, live stock or goods, shipped at that port since the last arrival of the ship thereat.

(b) On receipt of the return, the Income-tax Officer shall assess the amount referred to in sub-section (a) and for this purpose may call for such accounts or documents as he may require and one twentieth of the amount so assessed shall be deemed to be the amount of the profits and gains accruing to the principal on account of the carriage of the passengers, live stock and goods shipped at the port.

(c) When the profits and gains have been assessed as aforesaid, the Income-tax Officer shall determine the sum payable as tax thereon at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship, and a port clearance shall not be granted to the ship until the Customs Collector or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid.

Adjustment.

(2) Nothing in this Chapter shall be deemed to prevent a principal from claiming, in any year following that in which any payment has been made on his behalf under this Chapter, that an assessment be made of his total income in the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Regulation, and, if he so claims, any such payment as aforesaid shall be treated as a payment in advance of the tax and the difference between the sum so paid, and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be.

Tax when payable.

48. Any amount of income-tax specified as payable in a notice of demand under section 31 or an order under section 33, section 34 or section 35, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the 1st day of the second month following the date of service of the notice or order, and any assessee failing so to pay shall be deemed to be in default provided that, when any assessee has presented an appeal under section 32, the Income-tax Officer may, in his discretion, treat the assessee as not being in default as long as such appeal is undisposed of.

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Mode and time of recovery.

49. (1) When an assessee is in default in making a payment of income-tax the Income-tax Officer may, in his discretion, direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

(2) For the purposes of sub-sectoin (1), the Income-tax Officer may direct the recovery of any sum less than the amount of arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable.

(3) The Income-tax Officer may forward to the Deputy Commissioner a certificate under his signature specifying the amount of arrears due from an assessee, and the Deputy Commissioner on receipt of such certificate shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue under the provisions of the Cochin Revenue Recovery Regulation, No. IV of 1083.

(4) If any assessee is in receipt of any income chargeable under the head 'Salaries' the Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee and such person shall comply with any such requisition and shall pay the sums so deducted to the credit of the Government, or as the Government direct.

(5) The Government may direct, with respect to any specified area that income-tax shall be recovered therein, with, and as an addition to, any Municipal tax or local rate by the same person and in the same manner as the Municipal tax or local rate is recovered.

(6) Save in accordance with the provision of sub-section (1) of section 44 no proceeding for the recovery of any sum payable under this Regulation shall be commenced after the expiration of one year, from the last day of the year in which any demand is made under this Regulation.

Recovery of penalties

50. Any sum imposed by way of penalty under the provisions of sub-section (2) of section 26, section 30, or sub-section (2) of section 49, shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

Refunds

51. (1) If a share holder in a company who has received any dividend therefrom satisfies the Income-tax Officer that the rate of income-tax applicable to the profits or gains of the company at the time of the declaration of such dividend is greater than the rate applicable to his total income of the year in which such dividend was declared, he shall, on production of the certificate received by him under the provisions of section 21, be entitled to a refund on the amount of such dividend (including the amount of the tax thereon) calculated at the difference between those rates.

(2) If a member of a registered firm satisfies the Income-tax Officer that the rate of income-tax applicable to his total income of the previous year was less than the rate at which income-tax has been levied on the profits or gains of the firm of that year, he shall be entitled to a refund on his share of those profits or gains calculated at the difference between those rates.

(3) If the owner of a security from the interest on which, or any person from whose salary, income-tax has been deducted in accordance with the provisions of section 18, satisfies the Income-tax Officer that the rate of income-tax applicable to his total income of the previous year, was less than the rate at which income-tax has been charged in making such deduction in

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that year, he shall be entitled to a refund on the amount of interest or salary from which such deduction has been made calculated at the difference between those rates.

(4) For the purpose of this section, 'Total income' includes, in the case of any person not resident in Cochin all income, profits and gains wherever arising, accruing or received which, if arising, accruing, or received in Cochin would be included in the computation of total income under section 16.

(5) Nothing in this section shall entitle to any refund to any person not resident in Cochin who is not a subject of Cochin.

Limitation of claims for refund.

52. No claim to any refund of income-tax under this Chapter shall be allowed, unless it is made within one year from the last day of the year in which the tax was recovered.

Failure to make payments or deliver returns or statements or allow inspection.

53. (1) If a person fails without reasonable cause or excuse—

(a) to deduct and pay any tax as required by section 18 or under sub-section (4) of section 49 ;

(b) to furnish a certificate required by sub-section (9) of section 18 or by section 20 to be furnished ;

(c) to furnish in due time any of the returns mentioned in sub-section (2) of section 21, section 22, section 23, or section 40;

(d) to produce or cause to be produced, on or before the date mentioned in any notice under sub-section (4) of section 23, such accounts and documents as are referred to in the notice ;

(e) to grant inspection or allow copies to be taken in accordance with the provisions of section 41, he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

False statement in declaration.

54. If a person makes a statement in a verification mentioned in sub-section (2) of section 21, section 23, sub-section (3) of section 32, or sub-section (2) of section 34 which is false, and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 163 of the Cochin Penal Code.

Prosecution to be at instance of Deputy Commissioner

55. (1) A person shall not be proceeded against for an offence under section 53 or section 54 except at the instance of the Deputy Commissioner.

(2) The Deputy Commissioner may stay any such proceeding or compound any such offence.

Disclosure of information by a public servant.

56. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Regulation, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Regulation other than proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand prepared for the

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purposes of this Regulation, shall be treated as confidential, and, notwithstanding anything contained in any law in Cochin no Court shall, save as provided in this Regulation, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees or with both:

Provided that nothing in this section shall apply to the disclosure—

(a) of any such particulars for the purposes of a prosecution under section 179 of the Cochin Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit, or deposition or for the purposes of a prosecution under this Regulation; or

(b) of any such particulars to any person acting in the execution of this Regulation where it is necessary to disclose the same to him for the purposes of this Regulation; or

(c) of any such particulars occasioned by the lawful employment under this Regulation of any process for the service of any notice or the recovery of any demand:

Provided further, that no prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

Power to make rules

57. (1) The Government may make rules for carrying out the purposes of this Regulation and for the ascertainment and determination of any class of income.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the manner in which, and the procedure by which, the income, profits or gains shall be arrived at in the case of

(i) incomes derived in part from agriculture and in part from business;

(ii) Insurance Companies;

(iii) persons residing out of Cochin;

(b) prescribe the procedure to be followed on applications for refunds;

(c) provide for any matter which by this Regulation is to be prescribed.

(3) In cases coming under clause (a) of sub-section (2) where the income, profits or gains liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which, in the opinion of the Government is unreasonable, the rules made under that sub-section may,

(a) prescribe methods by which an estimate of such income, profits and gains may be made, and

(b) in cases coming under sub-clause (1) of clause (a) of sub-section (2) prescribe the proportion of the income which shall be deemed to be income, profits and gains liable to tax, and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Regulation.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication in the Government Gazette.

(5) Rules made under this section shall be published in the Government Gazette and shall thereupon have effect as if enacted in this Regulation,

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58. The Government may call for and examine the records of the proceedings of any income-tax authority for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such authority.

Power to call for and examine records of Proceedings of Income-tax authorities.

If in any case it shall appear to the Government that any decision or order or proceedings of such authority should be modified, annulled or reversed, the Government may pass such orders, not inconsistent with this Regulation, as it deems fit.

Provided that it shall not annul, modify or alter in any way an order passed by the Commissioner under section 64.

59. The Government may, by notification in the Goverement Gazette, make an exemption, reduction in rate or other modification in respect of income-tax, in favour of any class of income, or in regard to the whole or any part of the income of any class of persons.

Power to make exemptions, etc.

60. Any assessee who is entitled, or required to attend before any income-tax authority in connection with any proceedings under this Regulation, may attend either in person or by any person authorised by him in writing in his behalf.

Appearance by authorised representatives.

61. A receipt shall be given for any money paid or recovered under this Regulation.

Receipts and their contents.

62. (1) A notice or requisition under this Regulation may be served on the person therein named, either by anchal or post, or as if it were a summons issued by a Court under the Code of Civil Procedure.

Service of notices.

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family or an undivided Marumakkathayam Tarawad, be addressed to any member of the firm or the manager or any adult male member of a Hindu undivided family or any adult member of an undivided Marumakkathayam Tarawad and in the case of any other association of individuals be addressed to the principal officer thereof.

63. (1) Where an assessee carries on business at any place, he shall be assessed by the Income-tax Officer of the area in which that place is situate or, where the business is carried on in more places than one, by the Income-tax Officer of the area in which his principal place of business is situate.

Place of assessment.

(2) In all other cases, an assessee shall be assessed by the Income-tax Officer of the area in which he resides.

(3) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner:

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views.

(4) Notwithstanding anything contained in this section, every Income-tax Officer, shall have all the powers conferred by or under this Regulation on an Income-tax Officer in respect of any income, profits or gains accruing or arising or received within the area for which he is appointed.

64. Every person deducting, retaining or paying any tax in pursuance of this Regulation in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

Indemnity.

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Statement of case by Commissioner to Chief Court.

65. (1) If, in the course of any assessment under this Regulation or any proceeding in connection therewith, other than a proceeding under Chapter IX, a question of law arises, the Commissioner may, either on his own motion or on reference from any income-tax authority subordinate to him, draw up a statement of the case and refer it with his own opinion thereon to the Chief Court.

(2) Within one month of the passing of an order under section 33 or section 34 the assessees in respect of whom the order was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, require the Commissioner to refer to the Chief Court any question of law arising out of such order, and the Commissioner shall, within one month of the receipt of such application, draw up a statement of the case and refer it with his own opinion thereon to the Chief Court.

Provided that, if, in exercise of his power of review under section 35, the Commissioner decides the question, the assessee may withdraw his application, and if he does so, the fee paid shall be refunded.

Provided further, that the Commissioner shall refund the fee paid, if the decision of the Chief Court on a reference made under this section, is in favour of the assessee.

(3) If, on any application being made under sub-section 2, the Commissioner refuses to state the case on the ground that no question of law arises the assessee may apply within six months from the date on which he is served with a notice of the refusal, to the Chief Court, and the Chief Court, if it is not satisfied of the correctness of the decision of the Commissioner, may require the Commissioner to state the case and to refer it, and, on receipt of any such requisition, the Commissioner shall state and refer the case accordingly.

(4) If the Chief Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The Chief Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Commissioner a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Commissioner shall dispose of the case accordingly, or, if the case arose on a reference from any income-tax authority subordinate to him, shall forward a copy of such judgment to such authority who shall dispose of the case conformably to such judgment.

(6) Where a reference is made to the Chief Court on the application of an assessee, the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made unde this section to the Chief Court, income-tax shall be payable in accordance with the assessment made in the case.

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow.

Reference to be heard by Benches of the Chief Court.

66. Where any case has been referred to the Chief Court, under section 64, it shall be heard by a Bench of not less than two Judges of the Chief Court and in respect of such case the provisions of section 358 of the Civil Procedure Code, Regulation I of 1079 shall apply.

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Provided that where the Bench hearing the reference is composed of two Judges and they differ in opinion or consider that the points involved are so important as to be heard by a full Bench they shall state such point or points on which they differ, or, which they consider important as the case may be, to a Full Bench, and the decision of the majority of such Judges on such Full Bench shall be the decision of the Chief Court.

Bar of suits in Civil Courts.

67. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Regulation, and no prosecution suit or other proceeding shall lie against any Government officer for anything in good faith done or intended to be done, under this Regulation.

Sections carried.

Mr. K. Achyuta Menon.—I beg to move that the following shall be added as section 68:—"The provisions of section 13 of the Code in Limitation Regulation shall apply in computing the period of limitation prescribed for an appeal under this Regulation" That was only an omission and itis intended to give an advantage to the assessee who has to prefer an appeal. It is quite a harmless amendment.

Mr. C. J. Mathew.—I second it.

Amendment put and carried.

Question put: *that the followig section stands part of the Bill.*

Computation of period of limitation.

68. The provisions of section 13 of the Cochin Limitation Regulation shall apply in computing the period of limitation prescribed for an appeal under this Regulation.

Section carried.

Question put: *that the following schedule stands part of the Bill.*

Rates of Income-tax.

(Section 3.)

A. In the case of every individual, every Hindu undivided family, every undivided Marumakkathayam Tarawad, every unregistered firm and every other association of individuals not being a registered firm or a company.—

		Rate.
1.	Where the total income is less than Rs. 2,000 ..	Nil.
2.	Where the total income is Rs. 2,000 or upwards but less than Rs. 5,000 ..	Four pies in the rupee.
3.	Where the total income is Rs. 5,000 or upwards but less than Rs. 10,000 ..	Six pies in the rupee.
4.	Where the total income is Rs. 10,000 or upwards but less than Rs. 20,000 ..	Seven pies and a half in the rupee.
5.	Where the total income is Rs. 20,000 or upwards but less than Rs. 30,000 ..	Ten pies and a half in the rupee.
6.	Where the total income is Rs. 30,000 or upwards but less than Rs. 40,000 ..	Twelve pies in the rupee.
7.	Where the total income is Rs. 40,000 or upwards ..	Fourteen pies in the rupee.

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B.	In the case of every company and every registered firm, on all income not below 2,000	.. Fourteen pies in the rupee.

Schedule carried.

Question put: *that the preamble stands part of the Bill.*

Whereas it is expedient to impose a tax on incomes derived from certain sources, it is hereby enacted as follows.

Preamble.

Preamble carried.

Mr. K. Achyuta Menon.—I request that the rule of 15 days may be suspended.

President.—Suspended.

Mr. K. Achyuta Menon.—I beg to move that the Bill as amended by the Council may be taken up and passed at to-morrow's meeting.

Mr. C. J. Mathew.—I second it.

Motion put and carried.

Cochin Tenancy Regulation Amendment Bill.

President.—The Government Advocate will present the Select Committee Report on the Cochin Tenancy Regulation Amendment Bill.

Mr. K. Achyuta Menon.—Sir, I beg leave to present the Select Committee Report on the Cochin Tenancy Regulation Amendment Bill and beg to move that the Bill as amended by the Committee be taken up into consideration.

Mr. C. J. Mathew.—I second it.

മിസ്റ്റർ ജോസഫ് പെട്ട.—സർ, ഈ ബില്ലിനെപറ്റിയുള്ള ആലോചന കൌൺസിലിന്റെ അടുത്ത യോഗത്തിലേക്ക് നീട്ടിവെക്കേണ്ടതാണെന്നു് ഞാൻ അഭിപ്രായപ്പെടുന്നു. അതിനുള്ള നൊമത്തെ കാരണം ഇതിന്റെ മലയാളം തർജ്ജിമ ഈ വൃശ്ചികമാസം ര ാംതീ മാത്രമെ ഗസറ്റിൽ പ്രസിദ്ധപ്പെടുത്തിയിട്ടു എന്നുള്ളതാണ്. ഈ ബില്ലിലെ വിഷയം കുടിയാന്മാരെ വളരെ ഗാഢമായി സംബന്ധിക്കുന്ന ഒന്നാണ്. കുടിയാന്മാർ അധികം പേരും ഇംഗ്ലീഷ് നിശ്ചയമില്ലാത്തവരാണ്. അവർക്കു ബില്ലിന്റെ മലയാളം തർജ്ജമ വായിച്ചു മനസ്സിലാക്കുന്നതിനും ആവശ്യമുള്ള ഭേദഗതികൾ നിയമസഭയിൽ കൊണ്ടുവരത്തക്കവണ്ണം അവരുടെ അഭിപ്രായങ്ങൾ മെമ്പർമാരെ ഗ്രഹിപ്പിക്കുന്നതിനും ഇത്ര ചുരുങ്ങിയ സമയത്തിനുള്ളിൽ സാധിച്ചിട്ടില്ല എന്നുള്ളതു നാം പ്രധാനമായി ആലോചിക്കേണ്ടതാണ്. കൂടാതെയും, ഈ ബില്ലിനു പലതരത്തിലുള്ള ഭേദഗതികൾ മെമ്പർമാർ രാജരാക്കിയിട്ടുണ്ടു്. അവയെപറ്റിയും നാട്ടിൻപുറങ്ങളിലുള്ള ജനങ്ങൾക്കു് ആലോചിക്കുന്നതിനും അഭിപ്രായം പ്രകടിപ്പിക്കുന്നതിനും വേണ്ട അവസരം കൊടുക്കുന്നതു് സർവ്വഥാ ആദരണീയമായിരിക്കും. കൊച്ചി രാജ്യത്തെ കാർഷികാഭിവൃദ്ധിയേയും ജന്മികുടിയാന്മാരേയും വളരെ ഗൌരവമായി സ്പർശിക്കുന്ന

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